

REMARKS

Claims 1-19 are currently pending.

Claims 1-19 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,729,079 issued to Francis, III et al. (hereinafter “Francis”) in view of U.S. Patent No. 4,655,015 issued to Hoyer (hereinafter “Hoyer”). The Manual of Patent Examining Procedure (“MPEP”) sets forth that:

“To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the reference themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in the applicant’s disclosure.” See MPEP §2143.

Applicant respectfully submits that the Office Action has failed to set forth a *prima facie* case of obviousness as all the requirements for a *prima facie* case have not been met with respect to claims 1-19.

No motivation to combine or modify the cited references

Claim 1 (on which claims 2-10 depend), claim 11 (on which claims 12-18 depend) and claim 19, all contain the limitation of a bar having a “frontwardly protruding section” and a “rearwardly protruding section”. The specification sets forth that these two sections together “define a wave profile that is generally S-shaped when viewed from the side.” See lines 11-14, page 4 of the specification and FIG.3. FIG. 3 shows that the curved sections undulate in opposite directions away from the upper portion of the bar.

The Francis reference is directed towards a concrete bar anchor which is planar or flat. All of the Francis reference’s claims are specifically directed to either an anchor bar having “substantially flat parallel faces” or “a first *planar* face...[and] a second *planar* face extending parallel to said first”. See claims 1, 7, 11, and 16 of Francis (emphasis added). Furthermore, the

Francis reference discloses seven preferred embodiments, all of which have first and second planar faces oriented parallel to each other. See FIGS. 2, 7, 9, 11, 13, 16, and 21 of Francis; See also col. 4, lines 10-11, col. 5, lines 11-12, 21-22, 32-33, col. 6, lines 5-6, 44-46, and col. 8, lines 10-11 of Francis. Francis clearly indicates the preference of such “flat” concrete anchors.

Francis also clearly and specifically recognizes other concrete anchors using “bent” designs, and explicitly teaches away from such a modification or combination. Francis discloses many drawbacks of “bent” concrete anchor structures. Specifically, the patent discloses that “such structures ... are difficult to manufacture” (See lines 21-24, col. 1 of Francis) and that “bending of the anchoring legs would have added steps to the processes required to manufacture these anchoring elements, thereby raising the cost of the elements' manufacture.” See lines 33-34, col. 1 of Francis.

Applicants submit, therefore, that not only does the Francis reference not teach or suggest an anchor bar having a “frontwardly protruding section” and a “rearwardly protruding section”, the Francis reference teaches away from such an orientation because of the difficulties of manufacturing such an anchor. If anything, the teaching of Francis would motivate one of ordinary skill in the art away from making a bar with bent sections, as Francis suggests the problems of such a design.

The Hoyer reference teaches no more than a concrete anchor tie rod with an undulation at the tip. The Hoyer reference contains no teaching or suggestion of the production or design of any concrete anchor bar (i.e. strip of metal). While the Hoyer reference does disclose that it is possible for “two arcs to follow directly after the other” (See lines 56-57, col. 2 of Hoyer) the reference provides no teaching or disclosure of the direction of such arcs. The embodiments and figures of Hoyer only show the arc implemented in one direction. The only teaching as far as direction is the disclosure that “it is...within the scope of the invention to provide the undulations in several planes.” See col. 4, lines 12-14 of Hoyer. The “several planes” orientation suggested by the Hoyer reference implicitly dictates a perpendicular orientation of the several undulations.

The Hoyer reference contains no teaching or suggestion that would motivate on of skill in the art to craft a concrete anchor bar having a undulation in two directions in the same plane, i.e.

a “frontwardly protruding section” and a “rearwardly protruding section.” Furthermore, the teachings of Hoyer would not motivate one of skill in the art to modify the Francis reference, as the Francis reference itself teaches away from such a modification (in its discussing the problems of creating such “bends” when using a concrete anchor “bar”). Therefore even if Hoyer can be considered to teach multiple bends in an anchor, it does so in the context of teaching such bends for an anchor “rod” and not a flat metal “bar”. The Hoyer patent contains no teaching or suggestion of the creation of any concrete anchor bar, and does not suggest that the deficiencies of such bent bars as pointed out by Francis can be overcome.

Applicant respectfully submits that neither the Francis nor the Hoyer reference contain any teaching or suggestion that would motivate one of ordinary skill in the art to modify or combine the references to meet the limitations of claims 1-19.

References fail to teach or suggest all of the limitations of claims 1-19

As discussed above, claims 1-19 all contain the limitation of an anchor bar having a “frontwardly protruding section” and a “rearwardly protruding section.” Applicant respectfully submits that the cited prior art references, alone or in combination, fail to teach or suggest all of the limitations of claims 1-19.

As discussed above, the Francis patent is directed towards a concrete bar anchor which is planar or flat. The Francis patent contains no teaching or suggestion of any bent portion. In fact, Francis explicitly teaches away from such bent portions explaining that such sections provide a determinant in the manufacturing process of a concrete anchor bar.

The Hoyer reference, while teaching bends in a concrete anchor rod, contains no teaching or suggestion of an anchor bar having a frontwardly protruding section and a rearwardly protruding section. As discussed above, while the Hoyer reference discloses that it is possible for “two arcs to follow directly after the other” the reference provides no teaching or disclosure of the direction of such arcs. The embodiments and figures of Hoyer only show the arc implemented in one direction (forwardly).

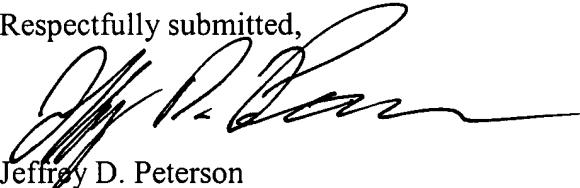
Applicant respectfully submits that the Francis and Hoyer references, alone or in combination, fail to teach or suggest all of the limitations of claims 1-19. Specifically, the references fail to teach or suggest an anchor bar having a “frontwardly protruding section” and a “rearwardly protruding section.” (See independent claims 1, 11 and 19)

Applicant also respectfully submits that as the cited references fail to provide motivation to one of ordinary skill in the art to modify or combine the references to teach the claimed invention, and as the reference fail to teach or suggest all of the limitations of the claimed invention, that a *prima facie* case of obviousness has not been made.

SUMMARY

Based on the foregoing, Applicant respectfully submits that the present application is in condition for allowance, and a favorable action thereon is respectfully requested. Should the Examiner feel that any other point requires consideration or that the form of the claims can be improved, the Examiner is invited to contact the undersigned at the telephone number listed below.

Respectfully submitted,



Jeffrey D. Peterson
Reg. No. 49,038

Docket No.: 092301-9007
Michael Best & Friedrich LLP
One South Pinckney Street
P. O. Box 1806
Madison, WI 53701-1806
608.257.3501
Q:\client\092301\9007\B0600340.1